

HOUSE No. 1009

The Commonwealth of Massachusetts

PRESENTED BY:

Eugene L. O'Flaherty

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to credit union branching.

PETITION OF:

NAME:

Eugene L. O'Flaherty

DISTRICT/ADDRESS:

2nd Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1053 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO CREDIT UNION BRANCHING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 8 of chapter 171 of the General Laws, as appearing in the 2004 Official Edition, is hereby
2 amended by striking out the entire section and inserting in place thereof the following: --

3 Section 8. With the written consent of the commissioner, the location of the main office of a credit union
4 may be changed.

5 After such notice and hearing as the commissioner may require and with his written permission and under such
6 conditions as he may approve, a credit union may establish and maintain one or more branch offices or depots at
7 such locations determined by the commissioner to be reasonably necessary to furnish service to its members within
8 the commonwealth, or on a site in one of the states of Connecticut, Maine, New Hampshire, Rhode Island or
9 Vermont, if in the opinion of the commissioner, the public would benefit by the establishment of additional credit
10 union facilities. The establishment and maintenance of branch offices or depots in any one of the foregoing states
11 shall also be established and maintained in accordance with the laws of such state. Any of the usual business
12 transacted by a credit union at its main office may be transacted at a branch office. The business at a depot shall be
13 transacted only on such days as may be designated by the board of directors and shall be limited to the receipt of
14 deposits and the collection of moneys due or payable to the credit union, and such business shall be subject to such
15 other conditions, if any, as may be prescribed by the commissioner.

16 With the written consent of the commissioner a branch office or depot may be closed, or its location may be
17 changed.

18 The offices of any credit union consolidating or merging under section seventy-eight may be maintained as branch
19 offices of such credit union, with the written permission of and under such conditions, if any, as may be approved by
20 the commissioner.

21 Mobile branch banking may be authorized by the Commissioner under conditions as said commissioner may
22 approve and subject to such regulations as said commissioner may establish.

23 SECTION 2. Chapter 171 of the General Laws, as so appearing, is further amended by inserting after section 8 the
24 following new sections: --

25 Section 8A: Any foreign credit union or out-of-state federal credit union, as defined in section one of this chapter,
26 doing a business similar to any business referred to in section two of this chapter, may establish and maintain branch
27 offices or depots in the commonwealth, if such foreign credit union or out-of-state federal credit union is expressly
28 authorized to do so by the laws under which it is organized and operates; provided that the laws of the state in which
29 such entities have their principal place of business expressly authorize, under conditions no more restrictive than
30 those imposed by this chapter as determined by the commissioner, Massachusetts credit unions to establish and
31 maintain branches and depots in such state. Such foreign credit unions and out-of-state federal credit unions shall
32 establish and maintain branches or depots in the state, in accordance with the same laws which govern such
33 activities by Massachusetts credit unions; provided, that the initial branch office other than one established pursuant
34 to chapter one hundred and sixty-seven B, or, if more than one, the branch deemed to be the initial office by such
35 entities, shall be considered the main office in the commonwealth for the purposes of determining the geographical
36 limitations on the establishment of branch offices.

37 For purposes of this section and sections eight B through eight G of this chapter, inclusive, the terms "foreign credit
38 union" and "out-of-state federal credit union" shall mean a credit union with its principal place of business in one of
39 the states of Connecticut, Maine, New Hampshire, Rhode Island or Vermont.

40 Section 8B: Any credit union, federal credit union, foreign credit union, or out-of-state federal credit union with a
41 branch office in the commonwealth may establish educational credit union training programs, student savings
42 deposit programs and school branch office programs. A credit union, federal credit union, foreign credit union or
43 out-of-state federal credit union with a branch office in the commonwealth shall conduct any such program under

such terms and conditions as the commissioner may establish. A federal credit union or out-of-state federal credit union with a branch office in the commonwealth shall conduct any such program in compliance with applicable federal law and regulations.

Section 8C: A foreign credit union or out-of-state federal credit union, if such credit union does not operate a branch in the commonwealth, may, upon approval by the commissioner of an application thereof in prescribed manner and form, establish and maintain a branch de novo in the commonwealth; provided, however, that in each instance the laws of the jurisdiction in which such credit union has its principal place of business expressly authorize, under conditions no more restrictive than those imposed by this chapter as so determined by the commissioner, a Massachusetts credit union to establish therein a branch de novo. Any such foreign credit union or out-of-state federal credit union shall operate the same as a Massachusetts branch under the supervision of the commissioner and in accordance with all applicable laws which govern such activities by Massachusetts credit unions.

Any out-of-state federal credit union shall operate the same as a federal branch which shall be subject to all laws of the commonwealth relative to community reinvestment, consumer protection, fair lending, establishment of intra-state branches, including but not limited to, sections one to fourteen A, inclusive, of chapter ninety-three, and the applicable sections of chapters ninety-three A, one hundred and sixty-seven, one hundred and sixty-seven B, one hundred and seventy-one, one hundred and eighty-three and one hundred and eighty-four, including all rules and regulations promulgated thereunder, and to such other laws of the commonwealth as are applicable to a federal credit union with its main office in the commonwealth.

Section 8D: The commissioner shall, in the manner prescribed in chapter one hundred and sixty-seven, section two, examine every foreign credit union and any out-of-state federal credit union which operates a Massachusetts branch and shall inspect and examine the affairs of any such foreign credit union or out-of-state federal credit union, to the extent of its operations in the commonwealth, to ascertain its financial condition and whether it has complied with all applicable law. The lawful charges incurred by reason of any such examination shall be paid by such credit union examined. The commissioner shall preserve a full record of each such examination. Such records and information contained in the report of any such examination, other than information required by law to be published or to be open to the inspection of the public, shall be open only to the inspection of the commissioner, his examiners and assistants, and such other officers of the commonwealth as may have occasion and authority to inspect them in

the performance of their official duties. Nothing in this section shall be construed to prohibit the required production of such records, and information contained in examination reports, before any court of this commonwealth or any master or auditor appointed by any such court, in any criminal or civil proceeding therein pending, affecting such Massachusetts or out-of-state branch, its officers, directors or employees.

Copies of reports of such examinations shall be furnished to the parent credit union of the branch examined for its use only and shall not be exhibited to any other person, organization or agency without the prior written approval of the commissioner. The commissioner may, in his discretion, furnish to any credit union regulatory agency or law enforcement agency, or the banking departments of other states, such information, reports and statements relating to the institutions under his supervision as he deems appropriate.

Notwithstanding the foregoing, the commissioner may enter into cooperative agreements with credit union regulators in jurisdictions other than the commonwealth to facilitate the regulatory supervision of Massachusetts and out-of-state branches including agreements relative to the coordination of examinations or joint participation in examinations of said branches, and may accept reports of examinations by such regulators pursuant to such agreements. The commissioner may also enter into such agreements providing for enforcement actions against Massachusetts and out-of-state branches. Any such agreement may include provisions relative to the amount and assessment of fees for any such examination or enforcement actions. Nothing in this section shall be construed as limiting in any way the authority of the commissioner to independently conduct examinations of and enforcement actions against any Massachusetts or out-of-state branch.

Section 8E: Each foreign credit union and out-of-state federal credit union which operates a Massachusetts branch shall register with the commissioner on forms prescribed by him which shall include such information with respect to the financial condition, operations, and management of such credit union and related matters as he may deem necessary or appropriate to carry out the purposes of this chapter.

The commissioner, from time to time, may require reports under oath to keep him informed as to whether the provisions of this chapter and the rules and regulations established thereunder have been complied with.

Section 8F: For the purposes of section eight E of this chapter, the commissioner or the person making the examination shall have free access to the vaults, books and papers of any such foreign credit union and out-of-state federal credit union, and may summon the directors, officers or agents thereof, and such other witnesses as deemed

99 necessary for examination relative to the affairs, transactions and condition of such credit unions, and for that
100 purpose is empowered to administer oaths.

101 Section 8G: If, upon examination, it appears that any such foreign credit union or out-of-state federal credit union is
102 insolvent, or that its capital is impaired, or that its condition is such as to render the continuance of business
103 hazardous to the public or to those having funds in its custody, the commissioner shall apply, or if any such credit
104 union appears to have exceeded its powers or failed to comply with any provision of applicable law may apply, to
105 the supreme judicial court, which shall have jurisdiction in equity on such application, to issue an injunction
106 restraining any such credit union, in whole or in part, from further proceeding with its business, and to make further
107 orders or decrees as justice and equity may require. The court may appoint one or more receivers to take possession
108 of its property and effects, subject to such directions as may from time to time be prescribed by the court.

109 SECTION 3: Section 79 of said chapter 171, as so appearing, is hereby amended by striking out the second
110 paragraph.